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*Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108*

Advisory Opinion

March 1, 2002
AO-02-10

Walter H. McLaughlin
Gilman, McLaughlin & Hanrahan, LLP
101 Merrimac Street
P.O. Box 9601
Boston, MA 02114-9601

RE: Support of candidates for representative town meeting

Dear Mr. McLaughlin:

This letter is in response to your request for an advisory opinion received on January 29, 2002. You have asked a number of questions concerning the application of M.G.L. Chapter 55, the campaign finance law, to a group that wishes to contribute to the support or opposition of candidates for representative town meeting.

You have stated that you are a member of the Committee for Fiscal Responsibility (the Committee), which is made up of Belmont residents whose purpose is to support or oppose town meeting member candidates for election to Belmont's representative town meeting. Such support may include expending a total of between \$5,000 and \$10,000 for such things as newspaper advertisements and direct mailings. You have stated that the Committee will not support or oppose candidates for any office other than Belmont town meeting member.

You have asked three questions concerning the application of the provisions of M.G.L. c. 55 to the activities of the Committee.

QUESTIONS

- (1) Would a committee that supports or opposes only town meeting candidates be a political action committee within the meaning of c.55, §5?

ANSWER: No.

- (2) What are the disclosure requirements under the campaign finance law for the activities of a group that supports only town meeting candidates?

ANSWER: None.

- (3) Is c. 55, §18A, the section relating to independent expenditures, applicable to the activities of the Committee?

ANSWER: No.

DISCUSSION

M.G.L. c. 55 governs campaign finance activity for all Massachusetts state, county and municipal candidates. Its provisions also apply to all groups that raise and spend money on behalf of such candidates. Section 1 of M.G.L. c. 55 defines a political committee as “any committee, association, organization or other group of persons, including a ... municipal committee, which receives contributions or makes expenditures for the purpose of influencing the nomination or election of ... candidates...”

The provisions of M.G.L. c. 55, however, are not applicable to the activity of the Committee in supporting or opposing persons seeking election to town meeting because such persons are not “candidates” within the meaning of the statute. See AO-95-03, a copy of which is enclosed, in which this office stated that due to the language and apparent objectives of M.G.L. c.55, persons running for town meeting should not be subject to the disclosure and limitation requirements of the campaign finance law.¹ The office reached this conclusion based in part on the language in Section 18(b) of chapter 55, which specifically excludes candidates for representative town meeting from the statute’s reporting requirements. In addition, the office concluded that given the limited nature and extent of a town meeting member’s duties, the statute does not contemplate requiring compliance by such persons with the contribution and expenditure limits of c.55.

It follows that a group that raises or spends money on behalf of persons seeking election to representative town meeting is similarly not subject to the limits or reporting requirements of M.G.L. c.55.

In addition, Section 18A requires any group not defined as a political committee, which makes independent expenditures in an aggregate amount of more than \$100 in a calendar year for the purpose of promoting the election or defeat of candidates, to file a report detailing such expenditures within seven business days after making the expenditure. Since persons running for representative town meeting member are not “candidates” under c. 55, expenditures on behalf of or in opposition to such persons are not reportable independent expenditures under Section 18A.

¹ They may, however, be subject to other sections of the campaign finance law. See M.G.L. c. 55, §§13-17. For example, a candidate for town meeting member, if otherwise employed for compensation by the commonwealth or any of its subdivisions, would be subject to M.G.L. c. 55, s. 13, which prohibits solicitation or receipt of contributions. In the latter instance, however, a member could ask supporters, friends or relatives to solicit and receive contributions on his behalf. In AO-95-03 the office stated that under M.G.L. c. 55, §15, representative town meeting members could not give contributions to other “persons in the service” of the Commonwealth or one of its subdivisions. This part of the advisory opinion was superceded by c. 349 of the Acts of 1996, which amended Section 15 to specify that the section should not be construed to prevent the making of contributions to candidates.

Finally, you should be aware that if the Committee were to engage in any activity undertaken on behalf of candidates for state or local offices other than member of representative town meeting or in support or opposition to ballot questions it would acting as a “political committee” within the meaning of Chapter 55. As such, the Committee would be required to organize with the appropriate local election official or this office and would become subject to the limits and reporting provisions of M.G.L. c.55. For example, a committee that raises or expends funds on behalf of several candidates for local or state office would be required to organize as a political action committee whereas a committee that receives or expends funds to promote or oppose a ballot question would be required to organize as a ballot question committee.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned to the left of a vertical line.

Michael J. Sullivan
Director

Enclosure
MJS:td